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9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 WAYMO LLC,

14 Plaintiff,

15 vs.

16 UBER TECHNOLOGIES, INC.;
17 OTTOMOTTO LLC; OTTO TRUCKING
18 LLC,

19 Defendants.

CASE NO. 3:17-cv-00939

**DECLARATION OF JORDAN R. JAFFE
IN SUPPORT OF WAYMO LLC'S
RESPONSE TO UBER'S MOTION TO
MODIFY THE PROTECTIVE ORDER
(DKT. 2726)**

1 I, Jordan Jaffe, hereby declare as follows.

2 1. I am a member of the bar of the State of California and a partner with Quinn
3 Emanuel Urquhart & Sullivan, LLP, counsel for Plaintiff Waymo LLC (“Waymo”). I make this
4 declaration of personal, firsthand knowledge, and if called and sworn as a witness, I could and
5 would testify competently as follows.

6 2. I submit this declaration in support of Waymo’s Response to Uber’s Motion to
7 Modify the Protective Order (Dkt. 2726).

8 3. The discovery produced in the above-captioned action was in accordance with the
9 Northern District of California Patent Local Rule 2-2 Interim Protective Order (the “Protective
10 Order”).

11 4. Based on a review of my firm’s records, the discovery taken by the parties in the
12 above-captioned action included approximately 205 deposition transcripts, 30 third-party
13 subpoenas, and 18 testifying experts who each served one or more expert reports.

14 5. Based on a review of my firm’s records, Waymo produced over 145,000 pages of
15 documents in the above-captioned action, which included documents protected by non-disclosure
16 agreements (“NDAs”) between Waymo and third parties. Waymo provided 50 notices to third
17 parties under those NDAs.

18 6. The documents produced by Waymo in the above-captioned action were designated
19 by Waymo under the Protective Order, and included third-party confidential information.

20 7. On September 8, 2020, Uber’s counsel in the Adversary Proceeding contacted
21 counsel for Waymo in this case, seeking to modify this Court’s protective order to permit use of
22 material designated under this Court’s protective order in the Adversary Proceeding. Attached as
23 Exhibit 1 is the September 8, 2020 email from Katharine Ciliberti to David Perlson.

24 8. During meet and confer discussions, as a compromise, Waymo suggested that Uber
25 issue targeted subpoenas in the Adversary Proceeding for relevant Waymo-only information,
26 which Waymo could then quickly consent to produce under the terms of the Bankruptcy Court’s
27 protective order because responsive documents would not implicate third party confidential
28 information.

1 9. Uber signaled possible agreement to Waymo's compromise but reserved the right
2 to issue a subpoena for the whole record.

3 10. Attached as Exhibit 2 is a subpoena dated September 23, 2020 that Uber issued to
4 Waymo that requests the production of documents.

5 11. Attached as Exhibit 3 is a subpoena dated September 28, 2020 that Uber issued to
6 Waymo that requests the production of documents.

7 12. On October 3, 2020, Uber's counsel confirmed by email that it would be filing a
8 motion before this Court to modify the Protective Order. Attached as Exhibit 4 is the October 3,
9 2020 Email from David J. Bradford to counsel for Waymo and others.

10 13. Attached as Exhibit 5 is an October 7, 2020 letter from Uber to the Court in the
11 matter *Levandowski v. Uber Technologies, Inc.*, Adv Pro. No. 20-03050 (Bankr. N.D. Cal.) (the
12 "Adversary Proceeding").

13 14. Attached as Exhibit 6 is an October 19, 2020 letter from Waymo to the Court in the
14 Adversary Proceeding.

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct.

17 DATED: November 19, 2020

/s Jordan R. Jaffe
Jordan R. Jaffe